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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 IN RE: SOCIAL MEDIA ADOLESCENT
12 ADDICTION/PERSONAL INJURY
13 PRODUCTS LIABILITY LITIGATION

No. 4:22-MD-3047-YGR (PHK)

MDL No. 3047

14 This Document Relates to:
15 ALL ACTIONS
16

**STIPULATION AND [PROPOSED]
ORDER GOVERNING PROTOCOL FOR
DEPOSITIONS OF TREATING
HEALTHCARE PROVIDERS**

1 This Stipulation and Order governing Protocol for Depositions of Treating Healthcare
 2 Providers shall govern the conduct of all depositions of Plaintiffs' treating healthcare providers in
 3 bellwether cases in MDL No. 3047 ("MDL") and California JCCP No. 5255 ("JCCP"). For
 4 purposes of this protocol, Plaintiffs' treating healthcare providers include school counselors who
 5 provided medical or mental health care to Plaintiffs. Any matters not addressed herein shall be
 6 governed by the Court's Discovery Limits Order and/or the Court's Protocol for Fact Depositions
 7 and Rule 30(b)(6)/PMQ Depositions.

8 **I. EX PARTE COMMUNICATIONS**

9 The state law applicable to each bellwether case governs whether *ex parte* communications
 10 with a Plaintiff's healthcare provider is permitted by Defendants. Plaintiffs' records authorizations
 11 do not permit *ex parte* contact between Defendants and Plaintiffs' healthcare providers nor do
 12 Plaintiffs' consent to *ex parte* communications related to a plaintiff.

13 To the extent Defendants believe applicable state law allows Defendants to engage in *ex*
 14 *parte* communications with a Plaintiff's healthcare provider, Defendants shall notify Plaintiff's
 15 counsel at least 7 days before engaging in any such *ex parte* communications so that Plaintiffs have
 16 the opportunity to raise with the Court any concerns with the proposed communications.¹

17 Subject to the limitation set forth above, in the event that counsel for a Party engages in *ex*
 18 *parte* contact with a treating healthcare provider, the date of such contact and any documents sent
 19 or shown to the provider must be produced to opposing counsel at least 5 days prior to the provider's
 20 deposition. If counsel for a Party engages in *ex parte* contact with a treating healthcare provider
 21 less than 5 days prior to the provider's deposition, the date of such contact and any documents sent
 22 or shown to the provider must be produced to opposing counsel the same day the contact occurred,
 23 and no later than 3 hours prior to the start of the provider's deposition. Pursuant to the terms of the
 24 Court's Protective Order, documents designated confidential by the Parties (excluding medical
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26
 27 ¹ Defendants' communications with health care providers made solely in order to schedule
 28 depositions shall not constitute *ex parte* communications and will not be subject to the 7 day
 notice requirement.

1 records of the provider) may *not* be shared with a treating healthcare provider prior to the provider's
2 deposition.

3 **II. CONDUCT OF DEPOSITIONS**

4 **A. Timing of Depositions**

5 Depositions of treating healthcare providers shall not occur until the following conditions
6 are met: (1) the treating healthcare provider (or, if applicable, the healthcare provider's facility)
7 produces all available medical records to MRC; and (2) the Plaintiff user (or, in the case of a
8 deceased plaintiff, their representative) has been deposed. The Parties may mutually agree to waive
9 one or both of these conditions.

10 **B. Order of Questioning**

11 With respect to order of questioning, the Parties will alternate by case. In the MDL, the
12 Parties have listed the cases alphabetically by last name, first for Plaintiffs' picks and then for
13 Defendants' picks, resulting in the following assignments: Plaintiffs will question first in
14 depositions of treating healthcare providers in D'Orazio, N.K. o/b/o S.K., M.M. o/b/o B.M.,
15 Clevenger, B.S. o/b/o J.D., and McNeal. Defendants will question first in depositions of treating
16 healthcare providers in Rodriguez o/b/o M.G., Mullen, Smith, Craig, L.H. o/b/o B.H., and Melton.

17 The Parties will use a similar assignment process in the JCCP, with cases listed by category
18 and alphabetically by last name. The Parties will alternate on the side to lead first, with Plaintiffs
19 going first in Category 1.

20 **C. Allocation of Time**

21 Depositions of treating healthcare providers shall not exceed 7 hours on the record. The
22 Parties will cooperate to reduce the total deposition time for specific providers who demonstrate a
23 need for reduced time based on extenuating circumstances. For each deposition, Defendants will
24 be entitled to 60% of the time on the record, while Plaintiff will be entitled to the remaining 40%.

25 **III. APPLICABILITY OF TIME LIMITS**

26 Any time Defendants spend questioning treating healthcare providers on the record shall
27 count against Defendants' 30-hour cumulative time limit for depositions of fact witnesses in
28

1 bellwether cases. Any time Plaintiffs spend questioning treating healthcare providers on the record
 2 shall *not* count against Plaintiffs' 240/288-hour time limit for fact and Rule 30(b)(6) depositions of
 3 Defendants.

4 **IV. WITNESS COMPENSATION**

5 Defendants shall be responsible for 60% of any compensation paid to treating healthcare
 6 providers for time spent testifying during depositions Plaintiffs shall be responsible for the
 7 remaining 40%. The Party that questions first during a given provider's deposition shall pay the
 8 provider's invoice. Within 30 days of the close of fact discovery, each Party shall seek
 9 reimbursement from opposing counsel for their share of all invoices paid by the Party, and copies
 10 of each such invoice shall be attached to the Party's request for reimbursement.

11
 12 Dated: October 8, 2024

13 Respectfully submitted,

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ORDER

IT IS SO ORDERED that the foregoing Stipualtion is approved:

DATED: _____

Hon. Peter H. Kang
United States District Court Magistrate Judge

ATTESTATION

I hereby attest that I have on file all holographic signatures corresponding to any signatures indicated by a conformed signature (/S/) within this e-filed document.

Dated: October 9, 2024

/s/ Tarifa B. Laddon

Tarifa B. Laddon